

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

C.W.P. No.8674 of 1994 (O&M)
DATE OF DECISION : 31.7.2012

Darshan Singh

PETITIONER

VERSUS

State of Haryana and others

RESPONDENTS

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present:- Shri Rishi Raj for Shri Puneet Jindal, Advocate for the petitioner.

Shri Rajiv Kwatra, Senior D.A.G. Haryana.

MAHESH GROVER, J.

The petitioner in this petition prays that the service rendered by him on work charge basis followed by regularization be considered for grant of pensionary benefits.

The petitioner joined the services of the State of Punjab, P.W.D. B&R Branch on 15.1.1947 as Lower Divisional Clerk and was subsequently promoted as Senior Clerk and Accounts Clerk. He continued to serve in the State of Punjab prior to its re-organization and subsequently worked with the State of Himachal Pradesh with effect from 1.11.1966 till 14.8.1967 when he resigned from there. He then joined services of the State of Haryana on 4.2.1971 as

Accounts Clerk-cum-Store Munshi as a work charged employee. On 2.6.1983 the petitioner retired on attaining the age of superannuation.

In the backdrop of the aforesaid facts, the petitioner has prayed for grant of pensionary benefits which have been declined to him, and as a justification thereof, the respondents have stated in their reply that the petitioner was brought on the regular rolls of the Department of P.W.D.(B&R), but the order of regularization could not be implemented because the petitioner failed to submit himself for the medical examination which was the requirement. The date of regularization attributed to the petitioner is 28.8.1980 which is also evident from Annexure R-1.

The solitary ground on which the prayer of the petitioner has been declined, has been noticed above i.e. the order of regularization not being implemented on account of non-cooperation of the petitioner who failed to submit himself for medical examination.

I have considered the matter and am of the opinion that the petition deserves to be accepted. The petitioner has concededly worked as a work charge employee with the respondents. His services were regularized on 28.8.1980 and he retired from the Department in 1983 on attaining the age of superannuation. Merely because he did not get himself medically examined, would not rob him of the benefit of regularization more particularly so, when he continued to serve the respondents in the year 1983 i.e. 3 years after the date of regularization. The periods rendered by him as work charge employee prior to regularization would therefore, need to be counted for the purposes of pension keeping in view the observations of a Full Bench of this Court in Kesar Chand v. State of Punjab Through the Secretary, P.W.D. B&R, Chandigarh and others 1988(5) S.L.R. 27.

The writ petition is therefore, accepted and the respondents are directed to count the service rendered by the petitioner as work charge employee

for the purpose of pension. The needful be done within four months from today and the benefits be released within two months.

July 31, 2012

GD

(MAHESH GROVER)
JUDGE

WHETHER TO BE REFERRED TO REPORTER? YES/NO